

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

JOHN BARASA

Plaintiff,

VS.

Case No. 4:13CV222

**BANK OF NEW YORK MELLON f/k/a
BANK OF NEW YORK as Trustee for
the Benefit of the Certificateholders of
the CWABS, Inc. Asset-Backed Pass
Through Certificates, Series 2004-4, et al.**

Defendants

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On February 19, 2014, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendants' Motion to Dismiss (Dkt. 5) be GRANTED and that Plaintiff's claims against Defendants Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, L.P., Countrywide Home Loans, Inc. d/b/a America's Wholesale Lender, Mortgage Electronic Registration Systems, Inc., The Bank of New York Mellon f/k/a The Bank of New York as Trustee for the benefit of the Certificateholders of the CWABS, Inc. Asset-Backed Certificates Series 2004-4, and ReconTrust Company, N.A. be dismissed with prejudice for

failure to state a claim. The Magistrate Judge further recommended that Plaintiff's claims against Defendants Green, Preston, and Hill be dismissed without prejudice and that this matter be closed on the court's docket.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed,¹ this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the court. Therefore, Defendants' Motion to Dismiss (Dkt. 5) is GRANTED and Plaintiff's claims against Defendants Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, L.P., Countrywide Home Loans, Inc. d/b/a America's Wholesale Lender, Mortgage Electronic Registration Systems, Inc., The Bank of New York Mellon f/k/a The Bank of New York as Trustee for the benefit of the Certificateholders of the CWABS, Inc. Asset-Backed Certificates Series 2004-4, and ReconTrust Company, N.A. are hereby dismissed with prejudice for failure to state a claim. Further, Plaintiff's claims against Defendants Green, Preston, and Hill are dismissed without prejudice and this matter shall be closed on the court's docket.

IT IS SO ORDERED.

SIGNED this the 28th day of March, 2014.



RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE

¹The court notes that the Magistrate Judge extended the deadline to object to March 19, 2014. See Dkt. 31. No objections were filed by that date.